

## **RECOMMENDATION**

**Ordinance 07-049  
Application 05-1199-S/Z**

**150 Red Mill Road**

**August 21, 2007**

### **DESCRIPTION**

Location: West side Red Mill Road, north side of Ruthar Drive

Councilperson: Stephanie McClellan, Fifth District

Rezoning: To rezone 22.64 acres from I (Industrial) to OR (Office Regional) for an existing general office building and to construct a new 120,000 square foot medical office building

Applicant: 150 Red Mill, LLC

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### **ZONING & DEVELOPMENT PATTERN**

The subject property is located west of Red Mill Road and north of Ogletown Road/Route 273, and south of the CSX rail line to the north; however, the site has no access to the rail line. Vehicles take access to the site from Ruthar Drive.

The site is located in a large area of Industrial (I) zoning, consisting of the Harmony Business Park, the Red Mill Industrial Park, and the Scerni Industrial Park. The large area of Industrial (I) zoning is bordered on the other side of the railroad primarily by homes zoned Suburban (S) and NC 6.5 (Neighborhood Conservation).

### **TECHNICAL ADVISORY AGENCY REVIEW**

Comments received from agencies participating on the Technical Advisory Committee (TAC) were general in nature.

## **BACKGROUND & ANALYSIS**

The subject property is a 22.6-acre site zoned I (industrial) with about 10.89 acres of protected land, including floodplain, wetlands, and riparian buffer. The applicant is requesting a rezoning from I (Industrial) to OR (Office Regional) to permit the construction of a 4-story 120,000 square foot medical office building with 3 stories or 90,000 square feet of medical office space and a 30,000 square foot one-story parking garage. It should be noted the parking requirement has been met for the proposed medical office building and the existing general office building. In addition, the protected resources, which are under conservation easement, will not be disturbed by the proposed medical office building.

The existing general office building, which is currently occupied by a textile manufacturing company, was constructed in 1969 according to County Assessment records pursuant to the former code and without a recorded plan. At that time, offices were permitted in the M-2 zoning district; however, currently the Industrial zoning district does not permit new freestanding office uses, which are not accessory to a permitted Industrial use. The subject parcel is located in a designated Community Redevelopment Area in the Comprehensive Plan, which is an area of existing development and infrastructure, where infill and redevelopment of sites to add greater density is encouraged in order to minimize public costs for new infrastructure while discouraging urban sprawl into the undeveloped portions of New Castle County.

### Public Hearing – August 7, 2007

Only one member of the public spoke with respect to the subject plan and rezoning; commenting that while the existing office building had been there for a long time, increased traffic as a result of the proposed medical office building would likely make traffic worse at the intersection of Red Mill Road and Ruthar Drive and north along Red Mill Road where it is difficult for the speaker to exit her residential neighborhood.

The applicant has applied for a Traffic Impact Study (TIS) Waiver, and has received a conditional approval of the waiver pending the final operational analysis of the area to determine any need for improvements or phasing. The attorney for the applicant stated at the public hearing that the intersection of Ruthar Drive with Route 273 will be operating at E Level of Service when the new office building is constructed, and that they are working with DelDOT to address this concern. In addition, a flood study is also being prepared by the applicant to determine the base flood elevation for the site since it is located within Flood Zone A.

Mr. Maloney asked the applicant's attorney whether she was aware that there was a shortage of industrial sites in New Castle County, and noted the location of the two rail lines to the north and south of the site. The attorney for the applicant responded that she was aware of a Delaware Economic Development Office (DEDO) survey which concluded that there was sufficient industrial space in New Castle County, and noted that currently there is no access at the site to either rail line. The Department has been unable to secure a copy of the industrial space survey from DEDO to which the applicant referred.

***Standards for Zoning Map Amendment - UDC Section 40.31.410***

In determining whether a zoning map amendment should be recommended or approved, all of the following factors shall be considered:

A. Consistency with the Comprehensive Development Plan and the purposes of this Chapter.

The 2007 New Castle County Comprehensive Plan Update Future Land Use Map designates the subject property as a Community Redevelopment Area, and the objective of “promoting the redevelopment of existing and underutilized properties” would be advanced by this plan and rezoning.

B. Consistency with the character of the neighborhood.

Redevelopment of an existing site containing an office building with an additional medical office building is consistent with the character of the mix of industrial and associated office uses in an existing industrial park.

C. Consistency with zoning and use of nearby properties.

Further development of an existing site containing an office building with a similar new medical office building within an existing industrial park is compatible with the surrounding mix of industrial and associated office uses. The nearby residential uses are buffered by the rail lines to the north and south of the subject parcel, and there is a conservation area associated with Cool Run to the west.

D. Suitability of the property for the uses for which it has been proposed or restricted.

The proposed plan and rezoning for an existing general office building and a proposed medical office building are suitable to the property as no protected resources will be disturbed, and adding density to the site within an existing industrial park is consistent with the Comprehensive Plan’s designation of the area as a Community Redevelopment Area in order to minimize public investment in new infrastructure and urban sprawl.

E. Effect on nearby properties.

The proposed plan and rezoning to permit the construction of a new medical office building and to legalize an existing general office building should not have an adverse impact on nearby industrial and office uses because it is located in an existing industrial park, and transportation impacts should be manageable as DelDOT does not believe that the developer should be required to undertake a Traffic Impact Study (TIS), pursuant to New Castle County Code Section 40.11.120.

## DEPARTMENT OF LAND USE RECOMMENDATION

The Department has considered the *Standards for Zoning Map Amendment* in UDC Section 40.31.410, A through E, the proposed plan, and comments received from agencies and the public. Based on this analysis, the Department is of the opinion that the standards are met by this proposal.

The Department of Land Use recommends **APPROVAL** of Ordinance 07-049.

## PLANNING BOARD RECOMMENDATION

At its business meeting held on August 21, 2007, the Planning Board considered the recommendation offered by the Department of Land Use.

The Planning Board disagreed with the Department of Land Use analysis and reasoning. A motion by Mr. McDowell and seconded by Mr. McGlinchey to adopt the Department's recommendation, analysis, and reasoning as its own failed by a vote of **3-5-1** (Yes: MacArtor, McDowell, and McGlinchey; No: *Anderson, Maloney, Singer, Weinberg, and Wilson*; *Absent: Walker*). As a result, the Board to voted to **DENY** Ordinance 07-049

In a discussion preceding the vote, the following comments were offered:

Mr. Maloney stated his objection to the loss of HI (Heavy Industrial) and I (Industrial) land through the rezoning process, and noted that the industrial parks were ideal employment centers for surrounding residential communities.

Mr. Singer also stated his opposition to the loss of industrial land, and read from a previous Department recommendation (Application 2005-1237-T, Ordinance 05-130) issued less than two years ago, the following paragraph, which he found convincing both then and now:

In addition to addressing safety concerns, the Department would like to address the importance of preserving industrial land. The Delaware Economic Development Office (DEDO) and the New Castle County Economic Development Council have consistently advocated for preserving I and HI land. These are the properties that can attract major industries that provide substantial employment opportunities. Considering the extent to which New Castle County has already been developed and the location and environmental requirements for manufacturing facilities, there may be no more opportunities to create new I and HI zones within our county. Therefore, it is critical to the economy that I and HI zones be preserved, even if some are currently underused. The potential to attract new industry will allow the county to maintain a prosperous economy in the future.

In addition, Mr. Singer pointed out that if the parcel presently at issue were to be rezoned to OR, it would be the only one between Harmony Road and Route 273 and between two railroads that is not industrially zoned.

Mr. Weinberg also expressed his opposition to the loss of industrial land through the rezoning process.

## **COMPREHENSIVE DEVELOPMENT PLAN**

The New Castle County 2007 Comprehensive Development Plan Update classifies the property as a Community Redevelopment Area on the Future Land Use Map, which will not require a require an amendment to change the land use designation.

## **STATUTORY GUIDELINES**

In the phraseology of 9 Delaware Code Section 2603 (a), the Department of Land Use finds that this rezoning would promote the convenience, order, and welfare of the present and future inhabitants of this state.

**NOTE:** The applicant is advised that pursuant to Section 40.31.113.F of Chapter 40 of the New Castle County Code (UDC), the preliminary plan associated with this rezoning cannot proceed to County Council until it addresses all the issues identified in the TAC Report and TAC report letter dated July 27, 2007, and the conditions noted in this recommendation report. The preliminary plan must be deemed “approvable” by the Department of Land Use prior to County Council action.

**NOTE:** It is the applicant’s responsibility to coordinate with the Clerk of County Council and the sponsor of the ordinance as to the date and time of the County Council hearing on this application.

[SIGNED 8/23/07]

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Victor Singer, Chair  
Planning Board

[SIGNED 8/23/07]

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Charles Baker, General Manager  
Department of Land Use